UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to:
OSB1999-0282-RI

August 7, 2000

Mr. Bob Graham
Natural Resources Conservation Service
101 SW Main Street
Portland, Oregon 97204

Re: Reinitiation of Section 7 Consultation and Conference, and Essential Fish Habitat Consultation on the Sauvie Island North Unit Wetlands Project, Columbia County, Oregon

Dear Mr. Graham:

On June 2, 2000, the National Marine Fisheries Service's (NMFS) received a letter from the National Resource Conservation Service (NRCS) requesting reinitiation of consultation on the Sauvie Island North Unit Wetlands Project (the North Unit), a water control structure and wetland restoration project funded by the NRCS.

The NMFS issued a biological opinion (OSB1999-0282) for the North Unit on October 20, 1999 (North Unit opinion) that found the proposed action was not likely to jeopardize the continued existence of Upper Willamette River chinook salmon. Consultation is being reinitiated at this time for these reasons: 1) The NRCS retains discretionary involvement or control over funding of the action; 2) the proposed management of the water control structures has been modified in a manner that may affect listed species; 3) listed species that were not considered in the first biological opinion are present in the action area; and 4) critical habitats have been designated within the action area since the North Unit opinion was completed.

This consultation is undertaken in accordance with section 7(a)(2) of the Endangered Species Act (ESA) and its implementing regulations at 50 CFR Part 402. In addition, this document also serves as consultation on Essential Fish Habitat (EFH) under the Magnuson-Stevens Act and its implementing regulations at 50 CFR Part 600.

SECTION 7 CONSULTATION AND CONFERENCE

Three listed species and their designated critical habitats and one candidate species occur in the project area. Lower Columbia River chinook salmon was listed as threatened on March 24, 1999 (64 FR 14308). Columbia River chum salmon was listed as threatened on March 25, 1999 (64

FR 15408). Lower Columbia River steelhead was listed as threatened on March 19, 1998 (63 FR 13347). Critical habitats were designated for each of these species on July 10, 2000 (65 FR 42423). Lower Columbia River/Southwest Washington coho salmon was added to the candidate list on July 25, 1995 (60 FR 1995).

The North Unit opinion only analyzed the effects of a new water control structure at Ruby Lake. Ruby Lake was found to have salmonids present in the lake during high water periods. Sampling has not been done on Millionaire and Deep Lake for usage by salmonids. As part of the original proposal, Millionaire and Deep Lake were to be monitored for evaluation of fish stranding rates. If stranding occurred at Ruby Lake, information collected at Millionaire and Deep Lake could be used to potentially indicate if the water control structure increased stranding rates over that which was naturally occurring. For various reasons, the water control structure at Ruby Lake has not been installed. The proposed modification of the North Unit now calls for construction of similar water control structures, and adherence to a monitoring plan, at all three lakes.

The NMFS believes that the effects of constructing the two additional water control structures are within the range of effects already considered in the North Unit opinion. These effects are:
1) A potential increase in delay of migration beyond that which is naturally occurring; 2) a potential increase in stranding of juvenile salmonids within the lakes beyond that which is naturally occurring; and, 3) a potential increase in over winter survival of juvenile salmon.

These three lakes currently drain at varying rates, depending on hydraulic conditions within the Columbia River. This may result in delaying migration of juvenile salmonids because of increased time needed to find an egress from the lakes. The water control structures are designed to further slow drainage of the lakes, maintaining higher water levels to eradicate Reed's canary grass. The slower drainage may increase the extent of migration delay currently experienced by juvenile salmon. However, the bypass system is designed to steadily attract juveniles, which may decrease migration delay.

Natural stranding may currently be occurring at all three lakes. Included in the proposed structures is a bypass system designed to attract juveniles and pass them out of the lakes. The proposed monitoring plan will allow for an evaluation of the effectiveness of the bypass system in passing juveniles out of the lake and potential stranding rates. The proposed monitoring plan will not answer whether the project will cause more or less stranding to occur than is already taking place. Since the monitoring plan does allow for an evaluation of the effectiveness of the bypass system, modifications to operation of the system can be made depending on the results of the monitoring.

Over the long term, the project is expected to have a beneficial effect. Higher over winter survival of juvenile salmon is expected to occur from improved habitat conditions caused by the reduction or elimination of Reed's canary grass. Monotypical habitat dominated by Reed's canary grass does not provide for a diversity of insect populations nor refugia. A more diverse area will allow for increased insect diversity and production and higher quality diverse refugia available for use by juvenile salmon.

Thus, NMFS finds that when the effects of the proposed action are added to the environmental baseline and cumulative effects, they are not likely to jeopardize the continued existence of Lower Columbia River chinook salmon, Columbia River chum salmon, or Lower Columbia River steelhead, nor are they likely to cause adverse modification or destruction of designated critical habitats. Finally, NMFS finds the proposed action is also not likely to jeopardize the continued existence of Lower Columbia River/Southwest Washington coho salmon, a candidate for listing. In making these determinations, NMFS relied on the best available scientific and commercial data.

This concludes formal consultation and conference for the North Unit. Consultation must again be reinitiated if: 1) The amount or extent of taking specified in the Incidental Take Statement is exceeded, or is expected to be exceeded; 2) new information reveals effects of the action may affect listed species in a way not previously considered; 3) the action is modified in a way that causes an effect on listed species that was not previously considered; or, 4) a new species is listed or critical habitat is designated that may be affected by the action (50 CFR 402.16). To reinitiate consultation, the NRCS should contact the Habitat Conservation Division (Oregon State Office) of NMFS.

INCIDENTAL TAKE STATEMENT

The Incidental Take Statement issued in the North Unit opinion is now modified as described below to address the construction of the water control structures on Millionaire Lake and Deep Lake. This Incidental Take Statement replaces the reasonable and prudent measure and terms and conditions in the prior consultation. The NMFS believes that the following reasonable and prudent measure is necessary and appropriate to avoid or minimize take of the above species.

1. The NRCS shall monitor Ruby Lake, Millionaire Lake and Widgeon Lake to determine the amount and extent of stranding that is occurring and to identify potential ways to minimize incidental take and report the results of that monitoring to NMFS.

To be exempt from the prohibitions of section 9 of the ESA, the NRCS must comply with the following terms and conditions, which implement the reasonable and prudent measure described above. These terms and conditions are non-discretionary.

1. To implement reasonable and prudent measure #1, above, the NRCS shall:

    a. Monitor the bypass outfall structures to learn if juveniles are successfully passing through the bypass structure.

    b. Monitor the extent of juvenile stranding within the three lakes.

    c. Analyze migration delay that may be occurring within the three lakes.

d. Provide a monitoring report of these activities to NMFS at the end of each migration period (no later than the end of August). Monitoring reports will be submitted to:

National Marine Fisheries Service
Attn: Ben Meyer
525 NE Oregon Street, #500
Portland, Oregon 97232-2737

ESSENTIAL FISH HABITAT CONSULTATION

The Pacific Fisheries Management Council (the PFMC) is one of eight regional fishery management councils established under the Magnuson-Stevens Act. PFMC develops and carries out fisheries management plans for salmon, groundfish and coastal pelagic species off the coasts of Washington, Oregon and California, and recommends Pacific halibut harvest regulations to the International Pacific Halibut Commission.

As required by the Magnuson-Stevens Act, PFMC described and identified EFH in each of its fisheries management plans. EFH includes "those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity." The Columbia River estuary and the Pacific Ocean off the mouth of the Columbia River were designated as EFH for groundfish and coastal pelagic species.[1] All streams, lakes, ponds, wetlands, and other water bodies currently or historically accessible to salmon in Washington, Oregon, Idaho, and California are proposed for designation as EFH for salmon.[2]

The Magnuson-Stevens Act also established an EFH consultation process. Federal agencies are required to consult with NMFS on all actions that may adversely affect EFH. The NMFS interprets the scope of these consultations to include actions by Federal agencies that occur outside designated EFH, such as upstream or up slope, but nonetheless may have an adverse effect on habitat conditions necessary for the long-term survival of the species within EFH. The NMFS must provide conservation recommendations for any Federal or State activity that may adversely affect EFH. Within 30 days of receiving EFH conservation recommendations from the NMFS, Federal agencies must conclude EFH consultation by responding to NMFS with a written description of conservation measures the agency will use to avoid, mitigate or offset the impact of its action on EFH. If the Federal agency selects conservation measures that are inconsistent with the conservation recommendations of NMFS, the Federal agency must explain in writing its reasons for not following NMFS' recommendations.

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[1] Pacific Fishery Management Council, Final Environmental Assessment/ Regulatory Review for Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan (October 1998), and The Coastal Pelagic Species Fishery Management Plan: Amendment 8 (December 1998). See, also, Casillas, *et al*., Essential Fish Habitat West Coast Groundfish Appendix, National Marine Fisheries Service, 778 p. (1988).

[2] Pacific Fishery Management Council, Amendment 14 to the Pacific Coast Salmon Plan. Appendix A: Description and Identification of Essential Fish Habitat, Adverse Impacts and Recommended Conservation Measures for Salmon (1999).

The project area for the proposed Sauvie Island North Unit Wetlands Project occurs within the area proposed for designation as EFH for chinook and coho salmon. The NMFS Information submitted by the NRCS in its biological assessment is sufficient to conclude that the effects of this project on designated and proposed EFH are likely to be within the range of effects considered in the Endangered Species Act portion of this consultation. Based on that analysis, the NMFS finds that the Sauvie Island North Unit Wetlands Project is unlikely to adversely affect EFH designated or proposed for any species considered here. Because the proposed project is not likely to adversely affect EFH, the NMFS has no conservation recommendations to make at this time.

The Columbia River upstream from the mouth to the City of Portland is within the designated EFH for starry flounder. However, NMFS believes that this project would have no impact on habitat utilized by starry flounder.

This concludes EFH consultation for the Sauvie Island North Unit Wetlands Project. The NRCS must reinitiate this EFH consultation if: 1) New information reveals effects of the agency action that may affect designated EFH in a manner or to an extent not considered in this consultation; 2) the agency action is subsequently modified in a manner that causes an effect to designated EFH not considered in this consultation; or, 3) new EFH is designated that may be affected by the action.

If you have any questions, please contact Ben Meyer of my staff in the Oregon State Branch Office at (503) 230-5425.

Sincerely,

For Michael R Crouse

William Stelle, Jr.
Regional Administrator

REFERENCES

Casillas, E., L. Crockett, Y. deReynier, J. Glock, M. Helvey, B. Meyer, C. Schmitt, M. Yoklavich, A. Bailey, B. Chao, B. Johnson and T. Pepperell. 1988. Essential Fish Habitat West Coast Groundfish Appendix. National Marine Fisheries Service. Montlake, Washington. 778 p .

PFMC (Pacific Fishery Management Council), 1998a. Final Environmental Assessment/Regulatory Review for Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan. October 1998.

PFMC (Pacific Fishery Management Council), 1998b. The Coastal Pelagic Species Fishery Management Plan: Amendment 8. December 1998.

PFMC (Pacific Fishery Management Council). 1999. Amendment 14 to the Pacific Coast Salmon Plan. Appendix A: Description and Identification of Essential Fish Habitat, Adverse Impacts and Recommended Conservation Measures for Salmon. Portland, Oregon.